

REMARKS

Claims 1-54 are pending in the case. The Examiner requires restriction under 35 U.S.C. §121 to one of four groups of claims identified as follows:

- Group I. Claims 1-15 drawn to a system or apparatus for making a customized coffee product, classified in class 99, subclass 323.3.
- Group II. Claims 16-38, 43-46, and 49-54 drawn to a method for delivering an individually customized coffee beverage product to an individual consumer, classified in class 426, subclass 433.
- Group III. Claims 41-42, drawn to a computer readable medium containing instructions for controlling a beverage delivery system to produce a customized coffee beverage product, classified in class 709, subclass 100.
- Group IV. Claims 39-40, and 47-48 drawn to an interactive system for determining and delivering a customized beverage product, classified in Claim 712.

Restriction Requirement

Applicants respectfully traverse the Restriction Requirement and submit that the claims of the four groups designated by the Examiner are closely interrelated from a patentability assessment standpoint. In addition, Applicants maintain that the claims of the four designated groups have not actually acquired a separate status in the art, notwithstanding different art classifications that may be artificially assigned for mere cataloging purposes. Therefore, in order to preserve the unity of the invention, all four groups of claims should be prosecuted in the same application. Prosecuting the four groups together would eliminate duplication of search efforts, thereby simplifying Patent Office examination work.


In the event the Examiner persists in the Restriction Requirement, Applicants hereby affirm the election of Group II, Claims 16-38, 43-46, and 49-54 for prosecution, holding Claims 1-15, 39-42, and 47-48 in abeyance for prosecution in a separately filed continuation application.

Conclusion

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the Restriction Requirement and allow claims 1-54 to be prosecuted in the same application. In the event that the Examiner's Restriction Requirement is made final, Applicants reaffirm the provisional election of Group II, Claims 16-38, 43-46, and 49-54 above for continued prosecution, holding Claims 1-15, 39-42, and 47-48 in abeyance under the provisions of 37 C.F.R. 1.142(b) until final disposition of the elected claims.

Respectfully submitted,

For: Roger W. Gutwein, et al.

By 
Erich D. Hemm
Attorney for Applicants
Reg. No. 47,286

September 18, 2002
Customer No. 27,552